

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Notice FSFL-23

For: State and County Offices

Farm Storage Facility Loan (FSFL) Program Provision Reminders

Approved by: Acting Deputy Administrator, Farm Programs

Bradley Karmen

1 Overview

A

Background

A recent county operations reviewer (COR) report of reviews conducted during FY 2001, indicated that FSFL common findings, in some cases, occurred in 20 percent or more of the 37 County Offices reviewed. Therefore, this notice reinforces the procedure that relates to the common findings meeting a 20 percent or higher error rate. Additionally, although some State Offices use a State-prepared loan processing checklist, PSD has determined there is a need for a National Office FSFL processing checklist (CCC-195) to help all State and County Offices avoid loan processing errors that may occur.

B

Purpose

This notice provides:

- reminders about FSFL provisions where common findings occurred in 20 percent or more of County Offices reviewed
- CCC-195 (Exhibit 1) to be used for all new FSFL applications.

C

Contact

State Offices shall direct questions about this notice to Chris Kyer at either of the following:

- telephone at 202-720-7935
- e-mail to **chris_kyer@wdc.usda.gov**.

Disposal Date

May 1, 2003

Distribution

State Offices; State Offices relay to County Offices

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2 FSFL Common Findings Occurring in More Than 20 Percent of County Offices Reviewed

A

Type of Security Not Entered on CCC-185

1-FSFL, subparagraph 102 A, requires that the type of collateral security used to secure the loan be entered by the approving committee on CCC-185, item 17. This applies to not only the manual CCC-185 but to the automated CCC-185, according to 1-FSFL, subparagraph 319 C, step 4.

B

Applicable Real Estate Lien Information Not Entered on CCC-185

1-FSFL, subparagraph 42 E, provides that any applicable real estate lien information be entered on the manual CCC-185, item 12 B. This information is needed to assist with identifying whether severance agreements must be obtained. This applies to not only the manual CCC-185 but to the automated CCC-185, according to 1-FSFL, subparagraph 317 B, step 5.

C

Approvals Not Documented in COC Executive Meeting Minutes

1-FSFL, subparagraph 101 B, requires that FSFL approvals and disapprovals are documented in COC **executive meeting** minutes.

D

Applicant Not Notified in Writing When Loan Funded

1-FSFL, subparagraphs 115 A and 115 B, step 2, require that the applicant be notified by letter when the loan is approved and funded. 1-FSFL, subparagraph 116 A, contains an example of a loan approval notification letter.

E

Final Lien Search Is Not Performed on Closing Date

1-FSFL, subparagraph 115 A, step 11, requires that a final lien search on the collateral be performed on the closing date. Because this is not always necessary or practical, the subparagraph will be amended to require a final lien search during preparation for loan closing if the County Office has:

- not filed UCC
 - filed UCC but is not sure if UCC was actually recorded.
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2 FSFL Common Findings Occurring in More Than 20 Percent of County Offices Reviewed (Continued)

F

CCC-297 Is Not Obtained From the Borrower, When Required

1-FSFL, subparagraph 118 A, requires County Offices to obtain severance agreements on CCC-297 from:

- lien holders of the applicable real estate, including FSA
- owners of the applicable real estate, including the borrower.

Severance agreements, unless waived by OGC, are required to grant access to CCC to take possession of and remove collateral, if debtors default on FSFL.

G

Check Not Disbursed Jointly to Borrower and Supplier

1-FSFL, subparagraphs 16 C and 122 D, require that loans shall be disbursed by joint check to the borrower and contractor or supplier unless the County Office has cost evidence on file that proves all amounts due have been paid.

H

Original Evidence of Cost Documents Not Date-Stamped

1-FSFL, subparagraph 121 C, requires that County Offices date-stamp original evidence of cost.

I

Proof of All Peril Insurance Does Not List CCC as Loss Payee

1-FSFL, subparagraph 58 F, requires that County Offices shall obtain proof of all peril insurance that lists CCC as a loss payee.

J

Cost Documents Not Signed and Dated By Seller

1-FSFL, subparagraph 121 A, requires that evidence of cost be signed and dated by the seller. Because suppliers and contractors often provide a signed CCC-191, this subparagraph will be amended to provide that cost evidence must be signed by the seller except when the seller has provided CCC-191 for the same net cost items and same dollar amount.

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2 FSFL Common Findings Occurring in More Than 20 Percent of County Offices Reviewed (Continued)

K

Original Evidence of Cost Documents Not Retained in Loan Folder

1-FSFL:

- subparagraph 121 B, provides that acceptable evidence of cost may be a facsimile or copy of a document

Note: The facsimile or copy may be original evidence of cost.

- subparagraph 121 C, requires that:
 - **original evidence** of cost is retained in the loan folder
 - copies are provided to the borrower, if necessary.
-

L

CCC-186 Approved by a Person Without Approval Authority

1-FSFL, subparagraph 2 F, provides that the authority to approve all loan forms and documents, may be redelegated in writing:

- by COC to CED, except CCC-185 and those FSFL's in which CED has a monetary interest
 - by CED to Federal and non-Federal County Office employees, except those applications in which the person approving has a monetary interest.
-

M

Serial Number of Equipment Not Entered on CCC-295A

Record serial numbers of equipment on CCC-295A, item 7. However, for safety reasons, 1-FSFL, subparagraph 122 B, cautions County Office employees to not attempt to locate serial numbers for equipment that is inaccessible or is not in a safe location.

N

Proof of All Peril Insurance Not on File

1-FSFL, subparagraph 58 F, requires County Offices to obtain proof of all peril insurance before FSFL is disbursed.

O

Final Inspection Not Documented on CCC-295A

1-FSFL, subparagraph 122 A, requires County Offices to document the results of **final** inspections of facilities in the loan folder on CCC-295A.

3 Action

A State and County Office Actions

CCC-195 has been compiled to help State and County Offices avoid the types of errors that have been found by COR reviews.

State Offices shall:

- review CCC-195
- if necessary, modify CCC-195 for States use by using the blank lines provided
- e-mail State-prepared loan processing checklists that differ from the National Office CCC-195 to **chris_kyer@wdc.usda.gov**
- issue CCC-195 to County Offices.

County Offices shall:

- prepare CCC-195 received from the State Office for each FSFL that has not been disbursed as of the date of receipt of CCC-195 and all new FSFL's
 - maintain CCC-195 in each FSFL folder
 - compute the appropriate box for each item by:
 - entering the date by which each item is performed
 - checking items that are not applicable.
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CCC-195, FSFL Processing Checklist

This form is available electronically.

CCC-195 (05-06-02)		U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation		1. Name of Applicant	
FARM STORAGE FACILITY LOAN (FSFL) PROCESSING CHECKLIST		2. Date of Application (MM-DD-YYYY)		3. Loan No.	
		4. State Office Name		5. County Office Name	
6. Office Staff Actions:		Handbook 1-FSFL or Other Applicable References	Date Completed (MM-DD-YYYY)	Check if Not Applicable	
A. Discuss key program provision with applicant:		Subparagraph 42A			
B. Complete all items on front side of manual CCC-185 (Loan Application and Approval for Farm Storage and Drying Equipment Loan Program) or prepare CCC-185 in APSS. Applicant must initial item 12B, if applicable.		Subparagraph 42E			
C. Collect application fee of \$45.00. Deposit immediately.		Subparagraphs 19A and 291			
D. Obtain copy of contracts, cost breakdown, or estimates for all proposed work.		Subparagraphs 10C and 42E			
E. Obtain copy of site plans, if available.		Subparagraph 10C			
F. Obtain copy of any building permits or zoning variances, if applicable.		Subparagraph 11A			
G. Obtain proof of crop insurance.		Subparagraphs 11A and 58A			
H. Obtain actual income and expenses from most recent year available.		Subparagraph 44D			
I. Obtain financial statement that is less than 90 days old on FSA 431-2 (Farm and Home Plan) or similar form.		Paragraph 44			
J. Obtain verification of debts and assets, if applicable, using FSA 440-32 (Verification of Debts and Assets).		Subparagraph 42F			
K. Obtain legal description of parcel(s) of land to be offered as security, such as described on a tax bill.		Paragraph 14			
L. Obtain legal description of parcel facility will be placed on (if different than land offered for security).		Paragraph 14			
M. Remind applicant that all peril insurance, listing CCC as loss payee, and possibly, flood insurance, on the structure and equipment will be required.		Subparagraph 58F			
N. Remind applicant that if real estate is required to secure the loan, title insurance or a title opinion will be required. This may result in attorney fees that must be paid by the applicant for title clearance and loan closing.		Paragraph 115			
O. Remind applicant that:		Subparagraph 10D			
<ul style="list-style-type: none"> delivery, site preparation and construction cannot begin until after the loan is approved. loans cannot be disbursed until construction is complete, final net cost is determined, and the facility is inspected. 					
P. Discuss filing and recording fees and who pays each fee.		Subparagraph 14I			
Q. Obtain CCC-10 (Representations for Commodity Credit Corporation or Farm Service Agency Loans and Authorization to File a Financing Statement and Related Documents FEMA-81-93) if a current one is not on file.		Paragraph 49			

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CCC-195, FSFL Processing Checklist (Continued)

CCC-195 (05-06-02)		Page 2 of 5	
	Handbook 1-FSFL or Other Applicable References	Date Completed (MM-DD-YYYY)	Check if Not Applicable
7. Office Staff Verifications of Eligibility and Application Processing:			
A. Prepare a 6-position or similar folder for each CCC-185.	Subparagraph 42F		
B. For applications lacking required information, notify applicant in writing.	Subparagraph 42C		
8. Eligibility:			
A. Verify DCIA compliance by checking applicant certification on CCC-185 and CCC or FSA Claims records.	Subparagraph 46C		
B. Verify HEL and WC compliance with copy of AD-1026 (Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification) and AD-1026A (Supplemental to AD-1026 (Continuation)).	Subparagraph 11A		
C. Verify compliance with any zoning ordinances or building permits.	Subparagraph 11A		
D. Verify proof of crop insurance.	Subparagraphs 11A and 58A		
E. Review applicable flood maps and prepare FEMA-81-93. Notify applicant if flood insurance will be required.	Subparagraphs 11A and 72B		
F. Verify compliance with controlled substance provisions by checking the controlled substance field in the producer's eligibility record.	Subparagraph 11A and 2-PL, Paragraph 50 1-CM, Part 30		
9. Lien Searches and Filing UCC's:			
A. Complete lien search for all UCC's, federal and State tax liens, and any judgements. Conduct real estate lien search to determine need for severance agreements.	Paragraphs 47 and 48		
B. File UCC financing statement on collateral as soon as description is available.	Paragraph 47		
C. Obtain lien waivers on CCC-190 (Farm Storage Facility Loan Program Lien Waiver), if applicable.	Paragraph 47		
10. Environmental and Historic Reviews:			
A. Notify State Historic Preservation Officer according to guidelines in applicable EQ directives. Notify Fish and Wildlife Service of proposed action, if applicable.	Subparagraph 72L		
B. Visit the site before site preparation and complete FSA-850 (Environmental Evaluation Checklist).	Paragraphs 70 through 75		
C. Complete FSA-851 (Environmental Risk Survey Form) for loans secured by real estate.	Subparagraph 75D		
D. Conduct further reviews as required, such as Class II Environmental Assessments.	Paragraph 75		
11. Determine Loan Amount, Storage Need and Equipment Eligibility:			
A. Determine maximum loan amount. Verify aggregate outstanding balance does not exceed \$100,000 for each borrower signing CCC-186 (Promissory Note and Security Agreement).	Paragraph 15		
B. Review CCC-185 and verify storage need.	Subparagraph 11C		
C. Verify eligibility of proposed structure and equipment.	Subparagraph 12A		

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CCC-195, FSFL Processing Checklist (Continued)

CCC-195 (05-06-02)		Page 3 of 5	
	Handbook 1-FSFL or Other Applicable References	Date Completed (MM-DD-YYYY)	Check if Not Applicable
12. Creditworthiness:			
A. If applicant is a business entity, order applicable credit report.	Paragraph 46		
B. If applicant is an individual, order applicable credit report.	Paragraph 46		
C. Determine credit worthiness by reviewing credit reports.	Paragraph 46		
13. Ability to Repay:			
A. Prepare a balance sheet cash flow plan for the current year showing that a 15% down payment is available.	Subparagraph 44D		
B. Prepare a balance sheet and cash flow plan showing that there are funds available to pay the first installment amount.	Subparagraph 44E		
C. Prepare recommendation to COC, from FSA employee who has FLP loan approval authority, indicating whether applicant is creditworthy and has ability to pay down payment and future installments.	Subparagraph 101E		
14. Collateral Security:			
A. Determine need for severance agreements and/or subordinations.	Paragraphs 118 and 119		
B. Prepare a recommendation to COC for collateral security requirements.	Paragraph 14		
15. County Committee Determinations to be Documented in Executive Meeting Minutes			
A. Date of Executive Meeting Minutes (date: _____)	Subparagraph 101B		
B. Applicant meets all eligibility requirements, including creditworthiness and ability to repay.	Subparagraph 101A		
C. Proposed facility or renovation is eligible and needed.	Subparagraph 101A		
D. Yields and acreage used to calculate storage need are reasonable.	Subparagraph 101A		
E. Environmental conditions of the site do not place CCC at risk.	Subparagraph 101A		
F. Type of collateral security required. Enter on CCC-185, item 17.	Subparagraphs 101A and 102A		
G. Approved or denied by signature on reverse of CCC-185. If denied, enter zero in item 14A.	Subparagraph 101B		
H. Enter conditions of approval, such as all peril insurance or flood insurance, in CCC-185 remarks section.	Subparagraph 101A		
I. If the application is one of first 5 received each FY or because of STC policy, refer application to STC.	Subparagraphs 15J, and 101C		

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CCC-195, FSFL Processing Checklist (Continued)

CCC-195 (05-06-02)		Handbook 1-FSFL or Other Applicable References	Date Completed (MM-DD-YYYY)	Check If Not Applicable
16. Approval Processing by Office Staff:				
A. Submit loan for funding through APSS.	Paragraph 331			
B. When notified of funding, issue approval letter. Record approval or disapproval in APSS. Enter date approval letter is issued, on CCC-185, item 14D. Distribute CCC-185, according to Subparagraph 102C.	Subparagraphs 102A and 116A, Paragraphs 319 and 332			
C. Monitor approval expiration date. Obtain and act on requests for extension of approval, if applicable.	Paragraph 123			
D. If applicable, issue disapproval letter.	Subparagraph 116B			
E. File UCC financing statement on collateral if not already filed.	Paragraph 47			
F. Request Severance Agreements on CCC-297 (Severance Agreement), or Subordination Agreements on CCC-194 (Farm Storage Facility Loan Subordination Agreement (Lien on Real Property) or other form provided, if necessary.	Paragraphs 118 and 119			
G. For loans to be secured by real estate, provide borrower with letter to select title company and legal services	Subparagraph 117A			
H. For loans where borrower selects an attorney for title clearance, obtain completed CCC-296 (Farm Storage Facility Loan Program Certification of Attorney) from attorney.	Subparagraph 117B			
I. For loans where borrower selects an attorney for title clearance, obtain completed CCC-299 (Title Opinion - Farm Storage Facility Loan Program) from attorney.	Subparagraph 117C			
J. Obtain evidence of final net cost and compute final loan amount. Be sure: <ul style="list-style-type: none"> • 15% minimum down payment amount has been paid • evidence of cost is date stamped by County Office • seller has signed evidence of cost • original documents are retained in the loan folder 	Subparagraphs 16A and 17B, Paragraph 121			
K. Obtain release of liability on CCC-191 (Farm Storage Facility Loan Program Release of Liability).	Subparagraph 121E			
L. Obtain proof of all peril insurance (CCC as loss payee), crop insurance, and current real estate tax.	Subparagraphs 58F and 115A			
M. Inspect the complete facility and document results on CCC-295A (Farm Storage Facility Loan Program Final Inspection of Facility Before Loan Disbursement).	Paragraph 122			
N. For loans not secured by real estate, confirm a loan closing date with applicant.	Subparagraph 115A			
17. Prepare for Closing				
A. For loans secured by real estate, send transmittal of title information.	Subparagraph 117C			
B. Review Title Opinion and update security requirements, if needed.				
C. Adjust funding obligation (if needed).	Paragraphs 333 and 334			
D. Verify UCC's, severance agreements, and subordinations have been filed and recorded.	Paragraphs 118 and 119			
E. If applicable, obtain equipment lien waivers, on CCC-190, before loan is disbursed.	Paragraph 47			

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CCC-195, FSFL Processing Checklist (Continued)

CCC-195 (05-06-02)		Handbook 1-FSFL or Other Applicable References	Date Completed (MM-DD-YYYY)	Page 5 of 5 Check if Not Applicable
18. Closing Loans Not Secured by Real Estate:				
A. Prepare CCC-186 Promissory Note and Security Agreement.	Subparagraph 115A and Paragraph 346			
B. Obtain borrower signatures. Obtain signature of CCC representative with authority to sign.	Subparagraph 2F Paragraph 136			
C. Disburse loan funds. If suppliers have not been paid, issue joint check.	Paragraph 347 Subparagraph 17C			
19. Closing Loans Secured by Real Estate:				
A. Issue closing notification to borrower.	Subparagraph 117E			
B. Prepare CCC-186 Promissory Note and Security Agreement.	Subparagraph 115A and Paragraph 346			
C. Prepare checks.	Subparagraph 123C and Paragraph 347			
D. Prepare Mortgage or Deed of Trust on CCC-193 (Real Estate Mortgage for Farm Storage Facility Loan Program).	Paragraph 119			
E. Issue closing instruction letter with applicable documents and CCC checks to closing agent.	Subparagraph 117F			
F. Receive loan closing statement from closing agent.	Subparagraph 117F			
20A. Checklist Prepared By:		20B. Date Prepared (MM-DD-YYYY)		